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HOUSE BILL 1326

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

MAX COLL

AN ACT

RELATING TO EDUCATION; AMENDING CERTAIN SECTIONS OF THE NMSA  
1978 PERTAINING TO THE TAXING AND BONDING AUTHORITY OF BRANCH  
COMMUNITY COLLEGES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 21-2A-2 NMSA 1978 (being Laws 1995,  
Chapter 224, Section 8) is amended to read:

"21-2A-2. DEFINITIONS. --As used in the College District  
Tax Act:

A. "board" means the governing board of the college  
district;

B. "college" means a two-year, public post-secondary  
educational institution organized pursuant to the provisions of  
the Community College Act, [~~Chapter 21, Article 14 NMSA 1978~~]  
the Technical and Vocational Institute Act, Chapter 21, Article

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1 17 NMSA 1978 or the Off-Campus Instruction Act; and

2 C. "college district" means a district in which a  
3 college is located or is proposed to be located, the exterior  
4 boundaries of which are determined pursuant to the statutory  
5 provisions under which the college is organized. "

6 Section 2. Section 21-2A-4 NMSA 1978 (being Laws 1995,  
7 Chapter 224, Section 10) is amended to read:

8 "21-2A-4. APPLICATION OF ACT. --The College District Tax  
9 Act applies to all [~~educational institutions organized pursuant~~  
10 ~~to the provisions of Chapter 21, Article 14 NMSA 1978, the~~  
11 ~~Community College Act, Chapter 21, Article 17 NMSA 1978, the~~  
12 ~~Technical and Vocational Institute Act and the Off-Campus~~  
13 ~~Instruction Act]~~ colleges. "

14 Section 3. Section 21-14-2 NMSA 1978 (being Laws 1963,  
15 Chapter 162, Section 2, as amended) is amended to read:

16 "21-14-2. ESTABLISHMENT AUTHORIZED- - BOARD- - DETERMINATION  
17 OF NEED- - AGREEMENTS. --

18 A. A branch ~~community~~ college may be established in  
19 a school district upon the showing of need by the local board of  
20 education. A branch ~~community~~ college may be established to  
21 include more than one school district, in which instance the  
22 boards of education shall act as a single board and, if the  
23 branch ~~community~~ college is established, shall continue to act  
24 as a single board unless a successor board is established as  
25 provided in Section 21-14-2.1 NMSA 1978. As used in Chapter 21,

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1 Article 14 NMSA 1978, "board" means either the local board of  
2 education, or the combined local boards of education acting as a  
3 single board, of the school district or the board of the branch  
4 community college elected pursuant to Section 21-14-2.1 NMSA  
5 1978.

6 B. The duties of the board are to:

7 (1) initiate and conduct the survey provided  
8 for in Subsection C of this section;

9 (2) select the parent institution;

10 (3) request approval of the branch community  
11 college from the [~~board of educational finance~~] commission on  
12 higher education;

13 (4) enter into written agreements with the  
14 board of regents of the parent institution selected, subject  
15 thereafter to biennial review by all parties concerned and to  
16 the review and commentary of the [~~board of educational finance~~]  
17 commission on higher education;

18 (5) act in an advisory capacity to the board of  
19 regents of the parent institution in all matters relating to the  
20 conduct of the branch community college;

21 (6) approve an annual budget for the branch  
22 community college for recommendation to the board of regents of  
23 the parent institution; and

24 (7) certify to the board of county  
25 commissioners the tax levy [~~and~~

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1                                   ~~(8) conduct the election for tax levies for the~~  
2 ~~branch community college~~].

3                                   C. Upon evidence of a demand for a branch community  
4 college, the board shall cause a survey to be made. The ~~board~~  
5 ~~of educational finance~~ commission on higher education shall  
6 develop criteria for the establishment of a branch community  
7 college, and no branch community college shall be established  
8 without the written authorization of the ~~board of educational~~  
9 ~~finance~~ commission.

10                                  D. If need is established, the board, in accordance  
11 with the ~~board of educational finance~~ commission on higher  
12 education criteria for initiating a branch community college  
13 program, shall consult with the board of regents of the higher  
14 education institution selected to be the parent institution,  
15 and, if the board and the board of regents agree to conduct a  
16 branch community college in the area, they shall transmit a  
17 proposal to establish a branch community college to the ~~board~~  
18 ~~of educational finance~~ commission. The ~~board of educational~~  
19 ~~finance~~ commission shall evaluate the need and shall notify the  
20 board and the board of regents of approval or disapproval of the  
21 proposal.

22                                  E. If the proposal is approved, the board and the  
23 board of regents of the parent institution shall enter into a  
24 written agreement, which shall include provisions for:

25   (1) the higher education institution to have

1 full authority and responsibility in relation to all academic  
2 matters;

3 (2) the higher education institution to honor  
4 all credits earned by students as though they were earned on the  
5 parent campus;

6 (3) the course of study and program offered;

7 (4) the cooperative use of physical facilities  
8 and teaching staff;

9 (5) consideration of applications of local  
10 qualified people before employing teachers of the local school  
11 system; and

12 (6) the detailed agreement of financing and  
13 financial control of the branch community college.

14 F. The agreement shall be binding upon both the  
15 board and the board of regents of the parent institution;  
16 however, it may be terminated by mutual consent or it may be  
17 terminated by either board upon six months' notice. However, if  
18 the branch community college has outstanding bonds, either tax  
19 or revenue, neither the board nor the board of regents may  
20 terminate this agreement until the outstanding bonds are  
21 retired, except as provided by Section 21-13-24.1 NMSA 1978.  
22 This provision shall apply to all agreements in existence  
23 between the branch community college and the board of regents of  
24 the parent institution.

25 G. All taxes levied to pay for principal and

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1 interest on bonds of the branch community college shall be in  
2 addition to the taxes levied for operating, maintaining and  
3 providing facilities for the branch community college pursuant  
4 to Section 21-14-6 NMSA 1978 and shall not be limited by the tax  
5 limitation found in that section.

6 H. For the purpose of relating branch community  
7 colleges to existing laws, branch community college districts or  
8 branch community colleges shall not:

9 (1) be considered a part of the uniform system  
10 of free public schools pursuant to Article 12, Section 1 and  
11 Article 21, Section 4 of the constitution of New Mexico;

12 (2) benefit from the permanent school fund and  
13 from the current school fund under Article 12, Sections 2 and 4  
14 of the constitution of New Mexico;

15 (3) be subject, except as it relates to  
16 technical and vocational education, to the control, management  
17 and direction of the state board of education under Article 12,  
18 Section 6 of the constitution of New Mexico; and

19 (4) be considered school districts insofar as  
20 the restrictions of Article 9, Section 11 of the constitution of  
21 New Mexico are concerned.

22 I. All elections held pursuant to the branch  
23 community college laws shall be as follows:

24 (1) the board calling the election shall give  
25 notice of the election in a newspaper of general circulation in

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1 the branch community college district at least once a week for  
2 three consecutive weeks, the last insertion to be not less than  
3 thirty days prior to the proposed election;

4 (2) the election shall be conducted and  
5 canvassed in the same manner as municipal school district  
6 elections unless otherwise provided in the branch community  
7 college laws; and

8 (3) any person or corporation may institute in  
9 the district court of any county in which the branch community  
10 college district affected lies an action or suit to contest the  
11 validity of any proceedings held under the branch community  
12 college laws, but no such suit or action shall be maintained  
13 unless it is instituted within ten days after the issuance by  
14 the proper officials of a certificate or notification of the  
15 results of the election and the canvassing of the election  
16 returns by the board.

17 J. The tax rolls of the school districts comprising  
18 the branch community college district shall be adopted as the  
19 tax rolls of the branch community college district. "

20 Section 4. Section 21-14-5 NMSA 1978 (being Laws 1957,  
21 Chapter 143, Section 4, as amended) is amended to read:

22 "21-14-5. FINANCING OF BRANCH COMMUNITY COLLEGES. --  
23 Financing of branch community colleges shall be by tuition and  
24 fees, which shall be set by the board of regents of the parent  
25 institution, by gifts and grants and by other funds as may be

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1 made available [~~pursuant to the provisions of the College~~  
2 ~~District Tax Act or Sections 21-14-1 through 21-14-11 NMSA 1978~~  
3 ~~by law.~~ "

4 Section 5. Section 21-14-9 NMSA 1978 (being Laws 1973,  
5 Chapter 371, Section 1, as amended) is amended to read:

6 "21-14-9. STATE SUPPORT-- APPROPRIATION. -- [A.] The  
7 commission on higher education shall recommend an appropriation  
8 for each branch community college and junior college based upon  
9 the college's financial requirements in relation to its  
10 authorized program and its available funds from non-general fund  
11 sources; provided, the recommended appropriation shall be an  
12 amount not less than three hundred twenty-five dollars (\$325)  
13 for each full-time-equivalent student.

14 [~~B. The commission on higher education shall not~~  
15 ~~recommend an appropriation greater than three hundred~~  
16 ~~twenty-five dollars (\$325) for each full-time-equivalent student~~  
17 ~~for any branch community college that levies a tax at a rate~~  
18 ~~less than one dollar (\$1.00), unless a lower amount is required~~  
19 ~~by operation of the rate limitation provisions of Section~~  
20 ~~7-37-7.1 NMSA 1978 upon a rate approved by the electors of at~~  
21 ~~least one dollar (\$1.00) on each one thousand dollars (\$1,000)~~  
22 ~~of net taxable value, as that term is defined in the Property~~  
23 ~~Tax Code, or any branch community college that reduces a~~  
24 ~~previously authorized tax levy, except as required by the~~  
25 ~~operation of the rate limitation provisions of Section 7-37-7.1~~

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1 ~~NMSA 1978.~~]"

2           Section 6.   TEMPORARY PROVISION--PROHIBITING ELECTIONS TO  
3 IMPOSE OR INCREASE CERTAIN TAX LEVIES.--Effective July 1, 1997,  
4 no branch community college board organized pursuant to the  
5 provisions of Chapter 21, Article 14 NMSA 1978 shall call or  
6 conduct an election for the purpose of imposing or increasing a  
7 special tax levy for the operation of a branch community college  
8 or for the purpose of approving additional general obligation  
9 bonds for capital expenditures or improvements for the branch  
10 community college.

11           Section 7.   TEMPORARY PROVISION--ABOLISHMENT OF TAX LEVY.--  
12 Effective July 1, 1998, the governing board of a branch  
13 community college shall provide for the abolishment of any  
14 continuing tax levy imposed for the purpose of financing the  
15 operation of a branch community college. The board shall  
16 certify to the appropriate board of county commissioners for the  
17 branch community college district the date upon which the tax  
18 levy imposed for operation of the district shall cease; provided  
19 that the levy imposed shall cease no later than December 1,  
20 1998.

21           Section 8.   TEMPORARY PROVISION.--Effective July 1, 1997:

22           A. no governing board of a branch community college  
23 shall authorize the issuance of general obligation bonds issued  
24 for the purpose of making capital improvements and expenditures  
25 for a branch community college; and

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B. no governing board of a branch community college shall call or conduct an election for the purpose of authorizing the imposition of a tax levy for the purpose of paying principal and interest on general obligation bonds issued for the purpose of making capital improvements or expenditures for a branch community college.

Section 9. TEMPORARY PROVISION--TAX LEVY CONTINUED-- PAYMENT IN FULL OF BOND DEBTS.--Any tax levy in effect on July 1, 1997, imposed for the purpose of paying debts incurred as a result of the issuance of general obligation bonds issued on behalf of a branch community college pursuant to the provisions of the College District Tax Act shall remain in effect until such time as all bond debts and general obligations of the branch community college are paid in full and the terms of all outstanding bonds are met.

Section 10. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1997.